SUPREME COURT, U. S.

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Supreme Court of the United States

October Term, 1964

No. 95

VICTOR LINKLETTER,

Petitioner,

against

VICTOR G. WALKER, Warden of Louisiana State Penitentiary, *et al.*,

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

No. 578

GEORGE ANGELET,

Petitioner,

against

EDWARD M. FAY, Warden of Green Haven State Prison, Stormville, New York,

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

SUPPLEMENTARY MEMORANDUM

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In Support of Respondents
Victor G. Walker and
Edward M. Fay

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Other Authority:

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SUPPLEMENTARY MEMORANDUM

Introduction

During oral argument of *Linkletter* v. *Walker*, No. 95, October Term, 1964, on March 11, 1965, counsel for the National District Attorneys' Association, *amicus curiae*, appearing in support of respondent, was granted leave to submit a supplementary memorandum. The memorandum was to include statistics indicating the number of present New York State prisoners who were convicted prior to the decision in *Mapp* v. *Ohio* [367 U. S. 643 (1961)]. That material is submitted below, in Section I.

In addition, Mr. Justice Harlan asked counsel for *amicus* to submit information as to the number of pre-*Mapp* cases in which New York State defendants were executed, after trials at which evidence was elicited that might have been affected by the *Mapp* decision. Such information is also included below, in Section II.

In seeking to present all of this information rapidly and thoroughly, *amicus* has worked in cooperation with the Office of the Attorney General of the State of New York, counsel for respondent in *Angelet* v. *Fay*, No. 578, October Term, 1964. Since the information applies to both *Linkletter* and *Angelet*, this supplementary memorandum is submitted to cover both cases.

I. Statistics indicating the number of present New York State prisoners who were convicted before the decision in *Mapp* v. *Ohio* *

On June 30, 1964, the most recent date for which such figures are available, 17,057 convicted prisoners were confined in New York State prisons. Of these defendants, 4,688 were convicted before January 1, 1961; this is the closest date to the *Mapp* decision for which statistics can reasonably be compiled. In addition to the defendants who are still in prison, approximately 8,500 are on parole from New York State prisons.** While no precise estimate can be made of the number of present parolees who were convicted before the *Mapp* decision, the percentage is substantial; the median sentence of the 5,285 prisoners who were received in New York prisons in 1961 was 4 years, 9 months.

The figures as to defendants confined in prison are set forth in Table I, *infra;* the Table shows the number of prisoners convicted of each category of crime. The Table does not include the 2,925 mentally ill prisoners who on June 30, 1964, were confined in state hospitals operated by the Department of Correction; no figures are available to show how many of these patients were convicted before 1961. Nor does the Table indicate the number of prisoners sentenced as multiple offenders, whose prior offense or offenses occurred before 1961. If *Mapp* were retroactive, presumably these prior convictions, having been used as a basis for increased punishment, would have to be re-examined [*cf. United States ex rel. LaNear* v. *LaVallee*, 306 F. 2d 417 (2d Cir. 1962)].

* The information in this section, unless otherwise noted, was supplied by the New York State Department of Correction, Division of Research, Albany, N. Y., at the request of the Attorney General of the State of New York.

** On January 1, 1964, 8,554 persons were under the supervision of state parole authorities [N. Y. S. Div. of Parole, 1963 Report, p. 15, reprinted as N. Y. S. Leg. Doc. (1964) No. 107, p. 15].

TABLE I

Number of Inmates in New York State Prisons on June 30, 1964

Reason for Commitment	*Total on June 30, 1964*	*Total Convicted before Jan. 1, 1961*
ALL OFFENSES—TOTAL	17,057	4,688
FELONIES—TOTAL	13,869	4,543
Murder, 1st degree	201	132
Murder, 2nd degree	542	422
Manslaughter	1,163	435
Manslaughter by negligence	15	1
Rape	404	185
Robbery	3,653	1,411
Assault	1,261	229
Burglary	1,773	567
Burglar's Tools	56	14
Grand Larceny (not auto)	1,509	256
Auto Larceny	544	159
Kidnaping	29	21
Dangerous Weapons	241	61
Narcotics	1,361	229
Forgery	416	147
Sex offenses, except Rape	346	188
Criminally Receiving Stolen Property	53	12
Abandonment	18	1
Arson	105	45
Frauds and Cheats	3	
Compulsory Prostitution and Abduction	17	7
Intoxicated Driving	15	
Gambling	2	
Malicious Mischief	20	4
Escaped Prisoner	14	5
Abortion	21	
Bail Jumping	5	1
Bigamy	5	1
Blackmail	1	1
Extortion	20	5
Perjury	6	
Injury to Railroad Property	1	1
Bribery	23	2
Aiding Escaped Prisoner	1	
Conspiracy	24	1
Accessory	1	
NON-FELONIES—TOTAL	3,188	145
Misdemeanors and Offenses	1,349	
Youthful Offender	1,642	
Wayward Minor	115	
Girls' Term Respondent	52	
Juvenile Delinquent	30	
TOTAL	17,057	4,688

II. Review, in the light of *Mapp* v. *Ohio*, of New York State capital cases that were disposed of before *Mapp*

From 1930 to the present date, 316 New York State prisoners have been executed.[1] Two of these executions occurred after the decision in *Mapp* v. *Ohio*, and concerned post-*Mapp* trials.[2] All of the convictions were rendered after trial. The material below is a review, in the light of *Mapp* v. *Ohio* and its progeny, of the trials of the last 100 New York defendants who were executed before the *Mapp* decision.

The 100 cases are listed below in Table II. The cases are numbered from 1 to 100, in chronological order of execution. The Table shows the defendant's name, the county of conviction, the date of conviction, and the date of execution. In addition, the Table indicates, by an "X" in the appropriate column, whether certain types of evidence that come within the scope of *Mapp* v. *Ohio*, or might possibly be affected by that decision, were elicited at trial: (*A*) tangible evidence recovered by police officers; (*B*) testimony by police officers as to their observations during a search;[3] (*C*) the defendant's incriminating statements to

1. The list of executions discussed herein was supplied by the Office of the Warden of New York State's Sing Sing Prison, at the request of the Attorney General. All sentences of death in New York are carried out at Sing Sing. Three federal prisoners were also executed there since 1930.

2. Frederick Wood, convicted Dec. 7, 1961, conviction affirmed 12 N. Y. 2d 69 (1962), executed Mar. 21, 1963; Eddie Lee Mays, convicted Nov. 8, 1962, conviction affirmed 13 N. Y. 2d (1963), executed Aug. 15, 1963.

3. *Cf. Henry* v. *Mississippi*, —— U. S. ——, 33 U. S. L. W. 4146 (Jan. 18, 1965).

the police;[4] (*D*) identification of the defendant by witnesses at the police station after his arrest.[5] The Table is not designed to express a judgment whether the search, seizure or arrest was constitutional or invalid. If more than one of the defendants listed in the Table were tried together, their names are connected by brackets.

Following the Table are narrative summaries of each of the 100 cases, numbered as in the Table. The summaries were prepared from the printed records and briefs on appeal to the New York Court of Appeals. At the head of each summary is the defendant's name; the county of conviction, in parentheses; the date of conviction; the citation to the New York Court of Appeals decision affirming the conviction; and the date of execution. Each summary includes a short description of the crime, and of the evidence of guilt. If the record shows that the police (*A*) obtained tangible evidence that was used at trial, (*B*) observed incriminating evidence during a search, (*C*) received an incriminating statement from the defendant, or (*D*) obtained a witness's identification of the defendant at the police station, the relevant facts appearing on the record are summarized. The notations "(*A*)" through "(*D*)," corresponding to the information in Table II, appear at the appropriate place in the narrative. If the record includes facts that indicate the basis for the search or arrest, these facts are set forth in the summary.

In some cases, the record contains facts establishing probable cause for an arrest, and the lawfulness of the

4. *Cf. Wong Sun* v. *United States*, 371 U. S. 471 (1963); *Traub* v. *Connecticut*, 374 U. S. 493 (1963).

5. This evidence, future defendants might argue, is "fruit of the poisoned tree," if the arrest and detention were unconstitutional. *Cf. Wong Sun* v. *United States*, *supra*, n. 4.

ensuing search, assuming that the testimony favorable to the People on these matters is accepted.[6] In some cases, according to the record, no evidence was obtained as a direct result of an arrest or search.[7] In many instances, however, where an evidence-producing arrest or seizure obviously occurred, the record is silent or vague as to the basis for the police action.[8] In other cases, the facts on the record are too sparse even for a determination whether there was an "arrest" or "search" in the constitutional sense of those terms.[9] In many, the record raises a question as to the defendant's standing to challenge the evidence, but the available facts allow no answer.[10] Therefore, no attempt has been made to judge the validity of the police conduct, or the admissibility of the evidence under present standards.

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6. See, *e.g.*, Nos. 26, 27, Milton Shaket and John Reilly; No. 28, Harris Gray; No. 55, Edward H. Kelly; No. 58, Donald H. Snyder; No. 65, William Vanderwyde; No. 69, Romulo Rosario; No. 82, MacDonald Browne; No. 92, Leroy Keith.

7. See, *e.g.*, No. 6, Oliver Little; No. 30, Eugene Pannell; Nos. 37, 38, John Dunn and Andrew Sheridan. Conceivably, in one or more of these cases, the police obtained clues to evidence that was used at trial by a search or arrest affecting the defendant; this is unlikely, and does not appear on the record.

8. See, *e.g.*, No. 9, Louis Brookins; No. 21, Enix Bussey; No. 22, Jauvhan Jackson; No. 29, Louis Smiley; No. 45, Harley G. LaMarr; No. 52, John Saiu; No. 53, Bernard Stein; Nos. 62, 63, Henry Lewis Allen and John Martin; No. 97, Willard Phillips; No. 98, Ronald Chapman. The records of these cases do not state whether the police had a search warrant, and are generally inconclusive on the question of consent.

9. See, *e.g.*, No. 7, George Donaldson; Nos. 11, 12, Edward Kahkoska and Edward Koberski; No. 23, Anthony R. Papa; No. 46, Willie W. Bunch; No. 76, Norman Roye; No. 84, David Taylor.

10. See, *e.g.*, No. 5, George F. Knight; Nos. 10, 12, Henry P. Suckow and Edward Koberski; No. 19, William James Thomas; No. 40, Floyd Arrington; No. 54, Wallace Ford; No. 64, Emile Hendricka Scott; Nos. 70, 71, 72, Harry A. Stein, Nathan Wissner and Calman Cooper; No. 75, William Byers; No. 84, David Taylor; No. 88, Virgil Richardson; No. 90, Jackson Turner, Jr.

TABLE II

Last 100 New York State Defendants Executed Before *Mapp* v. *Ohio*

	Defendant	*County of Conviction*	*Date of Conviction*	*Date of Execution*	*Evidence at trial included:* (A) Tangible evidence obtained by police	(B) Observations by police during a search	(C) Defendant's statements to police	(D) Identification of defendant at police station
1.	Peter DeLutro	N. Y.	11/ 8/43	6/29/44	×		×	
2.	(Lew York Hing	N. Y.	12/21/43	8/31/44	×		×	
3.	(Yun Tieh Li	N. Y.	12/21/43	8/31/44			×	
4.	(Helen Fowler	Niagara	2/11/44	11/16/44	×	×	×	
5.	(George F. Knight	Niagara	2/11/44	11/16/44	×	×	×	
6.	Oliver Little	N. Y.	4/20/45	1/17/46				
7.	George Donaldson	Rensselaer	6/25/45	3/ 7/46	×		×	
8.	Abraham Gold	Kings	6/18/45	4/25/46	×		×	
9.	Louis Brookins	Monroe	10/ 9/45	9/12/46	×		×	
10.	(Henry P. Suckow	Queens	7/24/46	3/ 6/47	×		×	
11.	(Edward Kahkoska	Queens	7/24/46	3/ 6/47	×		×	
12.	(Edward Koberski	Queens	7/24/46	3/ 6/47	×		×	
13.	(Arthur Johnson	Kings	8/ 1/46	4/17/47				
14.	(William Washington	Kings	8/ 1/46	4/17/47			×	
15.	Ward Beecher Caraway	Nassau	12/18/46	7/ 3/47	×		×	
16.	Salvatore DiCristofaro	Erie	11/29/46	7/10/47	×	×	×	
17.	(Edward N. Jones	Kings	4/22/46	7/10/47			×	
18.	(Arnold Sims	Kings	4/22/46	7/10/47			×	
19.	William James Thomas	N. Y.	12/11/46	7/10/47	×		×	
20.	Webster Daniel	N. Y.	1/28/47	8/21/47	×			
21.	Enix Bussey	N. Y.	3/24/47	12/ 4/47	×		×	
22.	Jaurhan Jackson	Kings	4/ 7/47	1/ 8/48	×		×	

	(Helen Powell	Niagara	2/11/44	11/16/44	×	×	×	
5.	(George F. Knight	Niagara	2/11/44	11/16/44	×	×	×	
6.	Oliver Little	N. Y.	4/20/45	1/17/46				
7.	George Donaldson	Rensselaer	6/25/45	3/ 7/46	×		×	
8.	Abraham Gold	Kings	6/18/45	4/25/46	×		×	
9.	Louis Brookins	Monroe	10/ 9/45	9/12/46	×		×	
10.	(Henry P. Suckow	Queens	7/24/46	3/ 6/47	×		×	
11.	(Edward Kahkoska	Queens	7/24/46	3/ 6/47	×		×	
12.	(Edward Koberski	Queens	7/24/46	3/ 6/47	×		×	
13.	(Arthur Johnson	Kings	8/ 1/46	4/17/47				
14.	(William Washington	Kings	8/ 1/46	4/17/47			×	
15.	Ward Beecher Caraway	Nassau	12/18/46	7/ 3/47	×		×	
16.	Salvatore DiCristofaro	Erie	11/29/46	7/10/47	×	×	×	
17.	(Edward N. Jones	Kings	4/22/46	7/10/47			×	
18.	(Arnold Sims	Kings	4/22/46	7/10/47			×	
19.	William James Thomas	N. Y.	12/11/46	7/10/47	×		×	
20.	Webster Daniel	N. Y.	1/28/47	8/21/47	×			
21.	Enix Bussey	N. Y.	3/24/47	12/ 4/47	×		×	
22.	Jauvhan Jackson	Kings	4/ 7/47	1/ 8/48	×		×	
23.	Anthony R. Papa	Nassau	10/22/47	7/ 1/48	×		×	
24.	(Lester Haughton	Bronx	4/14/47	7/22/48	×		×	
25.	(George C. Moore	Bronx	4/14/47	7/22/48	×		×	
26.	(Milton Shaket	N. Y.	11/19/47	9/16/48	×			
27.	(John Reilly	N. Y.	11/19/47	9/16/48	×			
28.	Harris Gray	N. Y.	3/10/48	1/ 6/49	×		×	
29.	Louis Smiley	N. Y.	3/15/48	1/13/49		×	×	
30.	Eugene Pannell	N. Y.	4/23/48	1/20/49				
31.	(Willie Grant	N. Y.	6/26/47	1/20/49			×	×
32.	(George Louis Monge	N. Y.	6/26/47	1/20/49			×	×

TABLE II (Continued)

Last 100 New York State Defendants Executed Before *Mapp* v. *Ohio*

	Defendant	County of Conviction	Date of Conviction	Date of Execution	Evidence at trial included: (A) Tangible evidence obtained by police	(B) Observations by police during a search	(C) Defendant's statements to police	(D) Identification of defendant at police station
33.	(Santo Bretagna	N. Y.	7/ 7/48	3/ 3/49			×	
34.	(William Rosenberg	N. Y.	7/ 7/48	3/ 3/49			×	
35.	(Herman Dupree	N. Y.	12/ 9/48	6/30/49			×	
36.	(Harold Dupree	N. Y.	12/ 9/48	6/30/49			×	
37.	(John Dunn	N. Y.	1/19/48	7/ 7/49				
38.	(Andrew Sheridan	N. Y.	1/19/48	7/ 7/49				
39.	(William M. Jackson	N. Y.	12/21/48	9/ 1/49	×		×	
40.	(Floyd Arrington	N. Y.	12/21/48	9/ 1/49	×		×	
41.	Walter Davis	Kings	1/ 7/49	9/ 8/49	×		×	
42.	Frank Bruno	Kings	2/10/49	1/ 5/50			×	
43.	George Peter Reeh	N. Y.	6/ 6/49	1/12/50			×	
44.	Julio R. Perez	N. Y.	11/23/48	6/25/50	×		×	
45.	Harley G. LaMarr	Erie	4/17/60	1/11/51	×		×	
46.	Willie W. Bunch	Nassau	2/10/50	2/15/51	×	×	×	
47.	Gilberto C. Walker	N. Y.	6/27/50	3/ 1/51	×		×	×
48.	(John J. King	Queens	6/29/50	3/ 8/51	×		×	
49.	(Richard Power	Queens	6/29/50	3/ 8/51	×		×	
50.	(Raymond Fernandez	Bronx	8/22/49	3/ 8/51	×		×	
51.	(Martha Beck	Bronx	8/22/49	3/ 8/51	×		×	
52.	John Saiu	Bronx	6/30/50	4/12/51	×		×	
53.	Bernard Stein	N. Y.	11/ 6/50	2/ 6/52	×	×	×	×

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39.	(William M. Jackson	N. Y.	12/21/48	9/ 1/49	×		×	
40.	(Floyd Arrington	N. Y.	12/21/48	9/ 1/49	×		×	
41.	Walter Davis	Kings	1/ 7/49	9/ 8/49	×		×	
42.	Frank Bruno	Kings	2/10/49	1/ 5/50			×	
43.	George Peter Reeh	N. Y.	6/ 6/49	1/12/50			×	
44.	Julio R. Perez	N. Y.	11/23/48	6/25/50	×		×	
45.	Harley G. LaMarr	Erie	4/17/60	1/11/51	×		×	
46.	Willie W. Bunch	Nassau	2/10/50	2/15/51	×	×	×	
47.	Gilberto C. Walker	N. Y.	6/27/50	3/ 1/51	×		×	×
48.	(John J. King	Queens	6/29/50	3/ 8/51	×		×	
49.	(Richard Power	Queens	6/29/50	3/ 8/51	×		×	
50.	(Raymond Fernandez	Bronx	8/22/49	3/ 8/51	×		×	
51.	(Martha Beck	Bronx	8/22/49	3/ 8/51	×		×	
52.	John Saiu	Bronx	6/30/50	4/12/51	×		×	
53.	Bernard Stein	N. Y.	11/ 6/50	2/ 6/52	×	×	×	×
54.	Wallace Ford	Genesee	12/ 4/51	10/30/52	×		×	
55.	Edward H. Kelly	Ulster	10/ 2/50	10/30/52	×			
56.	Joseph Paonessa	Dutchess	6/15/51	1/15/53	×		×	
57.	Frank Wojcik	Wyoming	5/13/52	4/16/53	×		×	
58.	Donald H. Snyder	Putnam	9/22/52	7/16/53	×		×	
59.	William Draper	Monroe	5/ 6/52	7/23/53	×	×	×	
60.	(Maurice O'Dell	Erie	5/ 1/53	1/ 7/54	×		×	
61.	(Walter Griffen	Erie	5/ 1/53	1/ 7/54	×			
62.	(Henry Lewis Allen	Kings	7/15/53	3/11/54	×		×	
63.	(John Martin	Kings	7/15/53	7/15/54	×		×	

TABLE II (Continued)

Last 100 New York State Defendants Executed Before *Mapp* v. *Ohio*

	Defendant	County of Conviction	Date of Conviction	Date of Execution	Evidence at trial included: (A) Tangible evidence obtained by police	(B) Observations by police during a search	(C) Defendant's statements to police	(D) Identification of defendant at police station
64.	Emile Hendricka Scott	N. Y.	10/19/53	7/15/54	×	×		×
65.	William Vanderwyde	N. Y.	4/30/52	7/22/54	×			
66.	(John Dale Green	Bronx	1/ 8/53	8/26/54	×		×	
67.	(Barry Jacobs	Bronx	1/ 8/53	8/26/54			×	
68.	Henry Mathews	N. Y.	4/ 8/54	2/10/55			×	
69.	Romulo Rosario	N. Y.	5/14/54	2/17/55	×		×	
70.	(Harry A. Stein	Westchester	12/27/50	7/ 9/55	×		×	×
71.	(Nathan Wissner	Westchester	12/27/50	7/ 9/55	×			×
72.	(Calman Cooper	Westchester	12/27/50	9/ 8/55	×		×	×
73.	(Clarence Reed	N. Y.	12/ 2/54	9/ 8/55	×		×	×
74.	(Edward Nichols	N. Y.	12/ 2/54	9/ 8/55	×		×	×
75.	William Byers	N. Y.	2/10/55	1/12/56	×	×	×	
76.	Norman Roye	N. Y.	3/ 4/55	1/19/56	×		×	
77.	John Francis Roche	N. Y.	11/30/54	1/26/56	×		×	
78.	Ernest Edwards	Kings	4/ 4/55	6/28/56	×		×	
79.	Frank J. Newman	Nassau	12/12/55	8/23/56	×	×	×	
80.	Joseph Reade	Chautauqua	12/ 2/55	8/30/56	×		×	
81.	Leonard Salemi	N. Y.	6/24/53	2/28/57				
82.	MacDonald Browne	Bronx	3/ 8/56	3/14/57	×		×	
83.	Miguel Santiago	N. Y.	12/17/56	8/15/57	×		×	

68.	Henry Mathews	N. Y.	4/ 8/54	2/10/55			×	
69.	Romulo Rosario	N. Y.	5/14/54	2/17/55	×		×	
70.	(Harry A. Stein	Westchester	12/27/50	7/ 9/55	×		×	×
71.	(Nathan Wissner	Westchester	12/27/50	7/ 9/55	×			×
72.	(Calman Cooper	Westchester	12/27/50	9/ 8/55	×		×	×
73.	(Clarence Reed	N. Y.	12/ 2/54	9/ 8/55	×		×	×
74.	(Edward Nichols	N. Y.	12/ 2/54	9/ 8/55	×		×	×
75.	William Byers	N. Y.	2/10/55	1/12/56	×	×	×	
76.	Norman Roye	N. Y.	3/ 4/55	1/19/56	×		×	
77.	John Francis Roche	N. Y.	11/30/54	1/26/56	×		×	
78.	Ernest Edwards	Kings	4/ 4/55	6/28/56	×		×	
79.	Frank J. Newman	Nassau	12/12/55	8/23/56	×	×	×	
80.	Joseph Reade	Chautauqua	12/ 2/55	8/30/56	×		×	
81.	Leonard Salemi	N. Y.	6/24/53	2/28/57				
82.	MacDonald Browne	Bronx	3/ 8/56	3/14/57	×		×	
83.	Miguel Santiago	N. Y.	12/17/56	8/15/57	×		×	
84.	David Taylor	Bronx	4/27/56	11/21/57	×		×	
85.	Elmer Burke	N. Y.	12/16/55	1/ 9/58			×	
86.	Nicholas Dan, Jr.	Niagara	6/21/57	7/ 3/58	×		×	
87.	Angelo LaMarca	Nassau	12/14/56	8/ 7/58	×		×	
88.	Virgil Richardson	Queens	5/ 3/57	11/20/58	×		×	
89.	Edward Eckwerth	Westchester	2/13/57	5/22/59	×	×	×	
90.	(Jackson Turner, Jr.	Queens	12/27/57	7/16/59	×		×	
91.	(Ralph Dawkins	Queens	12/27/57	7/16/59	×		×	×

TABLE II (Continued)

Last 100 New York State Defendants Executed Before *Mapp* v. *Ohio*

	Defendant	County of Conviction	Date of Conviction	Date of Execution	Evidence at trial included: (A) Tangible evidence obtained by police	(B) Observations by police during a search	(C) Defendant's statements to police	(D) Identification of defendant at police station
92.	Leroy Keith	Bronx	1/31/58	7/23/59	×			
93.	Ivory Mason	N. Y.	4/ 7/59	1/14/60			×	
94.	Pablo Vargas	N. Y.	1/23/59	5/12/60	×	×	×	
95.	(Henry Flakes	Erie	3/ 6/59	5/19/60	×		×	×
96.	(Walter T. Green	Erie	3/ 6/59	5/19/60	×		×	×
97.	Willard Phillips	Nassau	10/17/58	6/23/60	×		×	
98.	Ronald Chapman	N. Y.	11/30/59	12/ 7/60	×	×	×	
99.	Ralph Downs	Bronx	11/23/59	1/ 5/61			×	×
100.	Woodrow Miller	Kings	6/ 7/60	6/ 8/61	×	×	×	

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1. **Peter De Lutro**, convicted (N. Y.) Nov. 8, 1943, conviction affirmed 292 N. Y. 683 (1944), executed June 29, 1944.

Felony murder; shooting during poolroom robbery.

A police officer, unaware of the robbery, saw the defendant and two accomplices entering a car suspiciously, and commanded them to stop. They shot at him, left their car and ran off. The officer searched the vehicle, finding a cartridge shell (*A*), and property of the deceased (*A*). During a subsequent investigation of the felony murder, an accomplice confessed and implicated the defendant. The defendant was picked up, was questioned at the police station, and confessed (*C*). The accomplice and other eyewitnesses testified against him at trial.

2. 3. **Lew York Hing** and **Yun Tieh Li**, convicted (N. Y.) Dec. 21, 1943, convictions affirmed 293 N. Y. 742 (1944), executed Aug. 31, 1944.

Felony murder; robbery-strangling of a prostitute in a hotel room.

Defendant Lew York Hing's signature appeared in the hotel's register for the room of the murder. He was arrested in Norfolk, Virginia, whereupon he tried to conceal his identity from the police, supporting his claim with falsified identification cards (*A*). He later confessed (*C*). Defendant Yun Tieh Li was arrested on "confidential information," and also confessed (*C*). At trial, four accomplices testified against the defendants, hotel employees es-

tablished their presence in the room on the night of the homicide, and articles of the defendants' clothing, used to strangle the deceased and found around her neck, were introduced.

4. 5. **Helen Fowler** and **George F. Knight**, convicted (Niagara) Feb. 11, 1944, convictions affirmed 293 N. Y. 721 (1944), executed Nov. 16, 1944.

Felony murder; hammer-slaying of an old man during a robbery in defendant Fowler's apartment.

The deceased's body was found in the river six weeks after his disappearance. While sifting through the ashes in the stove of defendant Fowler's apartment, and examining the garbage can outside, the police found an eyeglass piece (*A*) belonging to the deceased, three metal buttons (*A*) from the cap he was wearing when he disappeared, a certain hook device (*A*), similar to the hook on the deceased's suspenders, and a button (*A*) from the deceased's trousers. The police took photographs of the unoccupied apartment, which were introduced at trial (*B*). The defendants confessed after arrest (*C*). At trial, defendant Fowler's three children described the assault, and a witness testified that the victim entered defendant Fowler's apartment in her company.

6. **Oliver Little,** convicted (N. Y.) Apr. 20, 1945, conviction affirmed 295 N. Y. 656 (1945), executed Jan. 17, 1946.

Felony murder; stabbing during a street robbery.

The conviction was based on the testimony of three friends of the defendant who witnessed the crime.

7. **George W. Donaldson,** convicted (Rensselaer) June 25, 1945, conviction affirmed 295 N. Y. 158 (1946), executed Mar. 7, 1946.

Common law murder; bludgeoning of the defendant's supervisor at their place of employment, a county tuberculosis sanitarium.

The deceased's bloodstained coat was found two days after his last appearance at work. The defendant, who had recently quarreled with the deceased, was called to the superintendent's office for questioning by the police. After interrogation in the office, and at the state police barracks, the defendant admitted killing the deceased with an iron pipe (*C*). He took the police to the buried body, recovered the pipe (*A*), showed where he had buried certain of the deceased's possessions (*A*), and went with the police to his own room, where he revealed the deceased's watch and keys (*A*) sewn in a pillow. The defense of insanity was raised at trial.

8. **Abraham Gold**, convicted (Kings) June 18, 1945, conviction affirmed 295 N. Y. 772 (1946), executed Apr. 25, 1946.

Common law murder; the defendant's wife was burned to death in the bathroom of their apartment.

The dying victim accused her husband of the crime. At the police station, the defendant confessed that he poured carbolic acid and kerosene over his wife and ignited the fuel (*C*). A gallon can containing the chemicals (*A*) was obtained from the apartment.

9. **Louis Brookins**, convicted (Monroe) Oct. 9, 1945, conviction affirmed 296 N. Y. 544 (1946), executed Sept. 12, 1946.

Felony murder; killing in the course of a rape and robbery.

On the night after the murder, the police went to a hotel room at which the defendant and a woman companion were staying, and took him into custody. His luggage, which was taken to headquarters, contained bloodstained clothing (*A*). The defendant acknowledged wearing these clothes when he killed the deceased (*C*). Also among the luggage was clothing (*A*) that the defendant admitted buying with the victim's money after the crime (*C*). A ring (*A*) that he gave to his companion was identified as the deceased's.

10. 11. 12. **Henry P. Suckow, Edward Kahkoska** and **Edward Koberski,** convicted (Queens) July 24, 1946, convictions affirmed 296 N. Y. 817 (1947), executed Mar. 6, 1947.

Felony murder; shooting of one of two robbery victims who had been sleeping in a parked car.

Twelve days after the crime, detectives picked up defendant Koberski at his home, and went with him to the home of defendant Kahkoska. The latter led a detective to a closet, and produced a revolver (*A*), the murder weapon, from a pocket of a jacket. The officer removed two bullets (*A*) from the jacket. Thereafter, defendant Suckow was taken into custody. At the police station, the three defendants gave incriminating statements (*C*). The surviving holdup victim testified against the defendants at trial.

13. 14. **Arthur Johnson** and **William Washington,** convicted (Kings) Aug. 1, 1946, convictions affirmed 296 N. Y. 888 (1947), executed April 17, 1947.

Felony murder; rape-slaying of a fifteen-year-old girl.

Defendant Washington was taken into custody five months after the crime. He named defendant Johnson as the one who attacked the girl; allegedly, Washington merely stood watch outside (*C*). Subsequently, Washington admitted helping Johnson drag the girl into a nearby building, and raping her himself, but maintained that Johnson had choked the girl to death (*C*). At the trial, a cousin of defendant Johnson testified that on the day after the

crime, Johnson had admitted to him that he and Washington had raped the girl, and that Johnson had then choked her. This witness also described defendant Johnson's admissions to him.

15. **Ward Beecher Caraway**, convicted (Nassau) Dec. 18, 1946, conviction affirmed 296 N. Y. 1035 (1947), executed July 3, 1947.

Common law murder; shooting of a housewife during a robbery.

Picked up and questioned by the police a week after the crime, the defendant made substantial admissions (*C*), and showed the police where he had hidden the murder weapon (*A*). At trial, the People introduced a letter (*A*) written by the defendant after the crime to his mother in North Carolina, in which the defendant asked her to telegraph him requesting his return home.

16. **Salvatore DiCristofaro**, convicted (Erie) Nov. 29, 1946, conviction affirmed 297 N. Y. 455 (1947), executed July 10, 1947.

Common law murder; shooting and bludgeoning to obtain the victim's car and money.

The deceased's body was found in a quarry eleven days after the crime. The defendant was picked up at his home twelve days later, and under questioning admitted that he had heard of the deceased and had seen his car. Apparently acting upon information from the deceased's brother that the murder weapons were in the defendant's home,

officers searched the premises; possibly, the defendant's wife consented to the search. The police obtained several bloodstained items: scrapings from the attic floor (*A*); portions of the attic floor (*A*), the attic door (*A*) and the front door (*A*); and sandpaper found in the attic (*A*). Photographs of the interior of the premises were taken, and were later used at trial (*B*). The defendant confessed the crime (*C*).

17. 18. **Edward N. Jones** and **Arnold Sims**, convicted (Kings) Apr. 22, 1946, convictions affirmed 297 N. Y. 459 (1947), executed July 10, 1947.

Felony murder; shooting of a storekeeper.

The defendants were arrested separately several months after the crime, apparently on information supplied by an accomplice. The defendants gave substantial admissions (*C*), and at trial the accomplice and the victim's wife described the defendants' participation in the murder.

19. **William James Thomas**, convicted (N. Y.) Dec. 11, 1946, conviction affirmed 296 N. Y. 1018 (1947), executed July 10, 1947.

Common law murder; shooting of a policeman whom the defendant and his accomplices came upon as they were enroute to execute a robbery.

Police officers obtained the defendant's address from his accomplices, found the premises unoccupied, but questioned a friend of the defendant who appeared there. The defendant's friend accompanied the police to his own home,

where a search revealed the murder gun (*A*). The police later arrested the defendant at his apartment, and he confessed at the police station (*C*). An accomplice and another eyewitness testified against him at trial.

20. **Webster Daniel**, convicted (N. Y.) Jan. 28, 1947, conviction affirmed 297 N. Y. 538 (1947), executed Aug. 21, 1947.

Common law murder; shooting of a policeman who pursued the defendant from the scene of a robbery.

The defendant fatally shot one of two policemen who chased him as he fled with the proceeds of a holdup. Officers nearby heard shots, saw the defendant running with something in his hand, and apprehended him. The other policeman, who had witnessed the killing of his partner, promptly arrived, and seized a bag of stolen property (*A*) from the defendant. A gun, later established as the murder weapon, was found along the defendant's route.

21. **Enix Bussey**, convicted (N. Y.) Mar. 24, 1947, conviction affirmed 297 N. Y. 627 (1947), executed Dec. 4, 1947.

Common law murder; separate killings, by strangulation and beatings, of two laundry proprietors, whom the defendant and his girl friend robbed pursuant to a common plan.

The police issued an alarm for certain property believed to have been stolen from the victims. The defendant and the girl were arrested by Buffalo police, at the

request of the New York police, and their room in Buffalo was searched, apparently by Buffalo police officers. The search produced a radio (*A*) and watch (*A*) belonging to the victims; a pawn ticket (*A*) for jewelry that belonged to the deceased; defendant Bussey's appointment-memorandum book (*A*) with incriminating notations referring to the date of the murders, indicating a plan to rob the victims; and a handwritten receipt (*A*) for a large amount of cash that the defendant had entrusted to someone soon after the murders. The defendant gave a confession to New York police officers (*C*). The girl was convicted at the same trial, and was sentenced to life imprisonment.

22. **Jauvhan Jackson**, convicted (Kings) Apr. 7, 1947, conviction affirmed 297 N. Y. 727 (1947), executed Jan. 8, 1948.

Felony murder; shooting during a payroll robbery. A co-defendant at the trial was convicted and sentenced to life imprisonment.

On the evening of the crime, police searched an apartment occupied by the two defendants, and found the murder weapon (*A*), and a blue naval officer's raincoat (*A*), its belt missing. A belt found at the scene of the crime matched the raincoat. The defendant first denied that the gun was his, but later admitted ownership, and acknowledged that he had fired the fatal shot (*C*).

23. **Anthony R. Papa**, convicted (Nassau) Oct. 22, 1947, conviction affirmed 297 N. Y. 974 (1948), executed July 1, 1948.

Common law murder; slaying of the five-year-old daughter of the defendant's neighbor.

Several hours after the body was discovered, the police picked up the defendant at his house, and took along a bloodstained sweater (*A*), which the defendant acknowledged was his (*C*). An officer later returned, and removed from the defendant's premises several other bloodstained garments: a pair of undershorts (*A*), an undershirt (*A*), and a pair of dungarees (*A*). The defendant admitted owning them, and confessed the crime (*C*). At trial, he claimed insanity.

24. 25. **Lester Haughton** and **George C. Moore**, convicted (Bronx) April 14, 1947, convictions affirmed 297 N. Y. 734 (1947), executed July 22, 1948.

Felony murder; shooting of a policeman during a liquor store robbery.

Friends of the defendants to whom the defendants had made admissions related this information to the police. Defendant Moore was apprehended, and confessed when confronted with the informants (*C*). Moore directed one of the informants to give the police the murder weapon, which Moore had entrusted to another friend. Pursuant to these directions, the informant, accompanied by the police, retrieved the gun (*A*) and brought it to the police station, where Moore identified it (*C*). Moore implicated defend-

ant Haughton, who was then taken into custody. He confessed (*C*) when confronted with Moore. The informants testified at trial.

26. 27. **Milton Shaket** and **John Reilly**, convicted (N. Y.) Nov. 19, 1947, convictions affirmed 297 N. Y. 930 (1948), executed Sept. 16, 1948.

Felony murder; shooting during a robbery in a bar.

A police officer near the scene, unaware of the crime, observed a man on the street shouting "stop" and pointing to a taxicab. The officer intercepted the cab, and was shot at by its occupants, the defendants. They were captured, and two guns (*A*), one of them the murder weapon, were found in the cab. At trial, eyewitnesses described the defendants' participation.

28. **Harris Gray**, convicted (N. Y.) Mar. 10, 1948, conviction affirmed 298 N. Y. 699 (1948), executed Jan. 6, 1949.

Common law murder; shooting of a policeman.

The defendant broke into an unoccupied house, then shot and killed one of two police officers who had come to investigate a report of prowling. The second officer and another patrolman wounded the defendant, and found the murder gun (*A*) near him, whereupon the defendant confessed (*C*).

29. **Louis Smiley**, convicted (N. Y.) Mar. 15, 1948, conviction affirmed 298 N. Y. 716 (1948), executed Jan. 13, 1949.

Common law murder; after the defendant and the rest of a group of men raped a young woman on a rooftop, the defendant pushed her off of the roof.

The defendant was arrested, apparently after a member of the group pointed him out to the police and informed them that the defendant had been on the roof. At the police station, the defendant was ordered to place the contents of his pockets on a table (*B*). While the defendant was being questioned, the police secretly placed a Mexican coin among his effects. Asked about the coin, the defendant said that it was his. When an officer revealed that the coin had been found at the scene, the defendant gave substantial admissions (*C*). Three co-defendants testified against him at trial.

30. **Eugene Pannell**, convicted (N. Y.) April 23, 1948, conviction affirmed 298 N. Y. 705 (1948), executed Jan. 20, 1949.

Felony murder; shooting of a patron of a brothel during a robbery.

An accomplice and other eyewitnesses established the defendant's guilt. Accomplices **Grant** and **Monge**, *infra* Nos. 31, 32, were convicted at a separate trial.

31. 32. **Willie Grant** and **George Louis Monge**, convicted (N. Y.) June 26, 1947, convictions affirmed 297 N. Y. 759 (1948), executed Jan. 20, 1949.

Felony murder; shooting of a patron of a brothel during a robbery. Accomplice **Pannell**, *supra* No. 30, was convicted at a separate trial.

Defendant Grant was taken to the police station, where an eyewitness identified him as one of the robbers (*D*). Grant was then charged with homicide, and later made admissions (*C*). Defendant Monge, implicated by Grant and others, was arrested, was identified in a lineup (*D*), and acknowledged being present at the scene (*C*). Accomplices and other eyewitnesses testified against the defendants at trial.

33. 34. **Santo Bretagna** and **William Rosenberg**, convicted (N. Y.) July 7, 1948, convictions affirmed 298 N. Y. 323 (1949), cert. denied 336 U. S. 919 (1949), executed Mar. 3, 1949.

Common law murder; shooting from ambush.

An informant, arrested on another charge, told the police that before the murder the defendants had been talking about harming the deceased; that later defendant Bretagna had confessed the murder, and that Bretagna had implicated defendant Rosenberg. Defendant Bretagna was arrested, and he confessed when confronted with the informant (*C*). Defendant Rosenberg was apprehended, and he confessed when confronted with Bretagna (*C*).

The informant testified at trial, and the defendants' purchase of a gun, their plotting, and their flight were proved by other witnesses.

35. 36. **Herman Dupree** and **Harold Dupree**, convicted (N. Y.) Dec. 9, 1948, convictions affirmed 299 N. Y. 630 (1949), executed June 30, 1949.

Felony murder; shooting during robbery of a speakeasy.

The defendants, brothers, were arrested, apparently on information from an acquaintance, who had seen them leaving the scene, and who had observed one of the defendants outside, acting in the manner of a lookout. Both defendants falsely denied having been at the scene (*C*). At trial, persons who were in the premises established one defendant's participation, and other proof established the second defendant's flight after the crime.

37. 38. **John Dunn** and **Andrew Sheridan**, convicted (N. Y.) Jan. 19, 1948, convictions affirmed 298 N. Y. 564 (1948), cert. denied 336 U. S. 946 (1949), executed July 7, 1949.

Common law murder; shooting from ambush.

Before dying, the wounded victim identified the defendants as his assailants; they were arrested. One defendant made admissions to a fellow prisoner in jail. The defendants' flight and getaway plans were also proved at trial.

39. 40. **William M. Jackson** and **Floyd Arrington**, convicted (N. Y.) Dec. 21, 1948, convictions affirmed 299 N. Y. 732 (1948), executed Sept. 1, 1949.

Felony murder; strangling of a taxicab driver during a robbery.

Defendant Jackson was arrested two days after the killing, made admissions (*C*), and was taken to his apartment, where the police obtained a housecoat (*A*) matching the belt with which the deceased was choked. Jackson named defendant Arrington, who was in the apartment, as his confederate; Arrington was arrested and he confessed at the police station (*C*). The police returned with Jackson to his apartment, where they found a Mass card belonging to the deceased (*A*), and Jackson produced from hiding the deceased's wallet (*A*). Fingerprints taken of Arrington while he was in custody (*A*) matched prints found on the cab. At trial, Jackson confessed, and Arrington admitted the robbery.

41. **Walter Davis**, convicted (Kings) Jan. 7, 1949, conviction affirmed 299 N. Y. 745 (1949), executed Sept. 8, 1949.

Common law murder; stabbing of an old woman.

Five days after the killing, the police went to the defendant's apartment and took him in for questioning. When the defendant stated that he had sent some clothing to a cleaner for removal of blood spots that he had acquired during a street fight, the police obtained the bloodstained

garments (*A*). The defendant confessed the crime (*C*), and described where he had thrown the murder knife (*A*), which was then recovered.

42. **Frank Bruno**, convicted (Kings) Feb. 10, 1949, conviction affirmed 300 N. Y. 511 (1949), executed Jan. 5, 1950.

Common law murder; shooting.

The defendant, while serving a sentence on another charge, was questioned by detectives about the crime in question, and confessed (*C*). An accomplice testified against him at trial.

43. **George Peter Reeh**, convicted (N. Y.) June 6, 1949, conviction affirmed 300 N. Y. 543 (1949), executed Jan. 12, 1950.

Felony murder; shooting of a store employee during a robbery.

An informant with a prior criminal record, arrested on a charge unrelated to the felony murder, told the police that the defendant had confessed the murder to him. The defendant was arrested, and he confessed (*C*). The informant, another acquaintance to whom the defendant confessed, and an accomplice testified at trial.

44. **Julio R. Perez**, convicted (N. Y.) Nov. 23, 1948, conviction affirmed 300 N. Y. 208 (1949), cert. denied 328 U. S. 952 (1950), executed June 25, 1950.

Felony murder; stabbing during a robbery at the deceased's apartment.

The police discovered in a pawnshop a raccoon coat and other property matching the description of property robbed from the deceased. A detective saw the defendant leaving the pawnshop with the coat, and stopped and questioned him, but the defendant struck the officer, and fled. The detective apprehended him and seized the coat (*A*). At the police station, he found on the defendant's person a fountain pen bearing the name of the deceased's husband (*A*). The defendant initially gave false explanations of his possession of the stolen property, but later confessed (*C*). The defendant's uncle acknowledged to the police that he had received a screwdriver, the murder weapon, from the defendant. The uncle produced the screwdriver (*A*) at his home, together with property of the deceased (*A*).

45. **Harley G. LaMarr**, convicted (Erie) April 17, 1950, conviction affirmed 301 N. Y. 762 (1950), executed Jan. 11, 1951.

Felony murder; shooting in the course of rape and robbery.

After the crime, the unidentified bandit drove off in the deceased's car, and abandoned it a few blocks from the defendant's apartment. Police recovered the car, and found

in it a belt belonging to the deceased and a rifle, the murder weapon. They later apprehended the defendant at his home, searched his room, and found bloodstained clothing (*A*) and the keys to the deceased's car (*A*). The defendant made admissions at the time of his apprehension, and confessed in the police station (*C*). Witnesses who saw him in the vicinity of the crime testified at trial.

46. **Willie W. Bunch**, convicted (Nassau) Feb. 10, 1950, conviction affirmed 302 N. Y. 595 (1951), executed Feb. 15, 1951.

Felony murder; hammer-slaying during a gas station robbery.

After learning that on the night of the killing the defendant was in the company of the deceased at the gas station, the police accompanied the defendant to the precinct house. Officers removed blood sediments from the defendant's fingernails (*B*). Detectives searched the defendant's home, and obtained bloodstained clothing (*A*). Confronted with this clothing, the defendant confessed, and retracted a false alibi (*C*). At trial, witnesses established that the defendant had no money before the killing, but that afterwards he spent an amount equal to the stolen money.

47. **Gilberto C. Walker**, convicted (N. Y.) June 27, 1950, conviction affirmed 302 N. Y. 565 (1951), executed Mar. 1, 1951.

Felony murder; shooting in a robbery of a grocery store.

An accomplice was apprehended, confessed, and implicated the defendant, who was then arrested. An eyewitness identified the defendant in a police lineup (*D*), and he confessed (*C*). The defendant led the police to the home of a friend, where, at the defendant's direction, she produced the murder weapon (*A*).

48. 49. **John J. King** and **Richard Power**, convicted (Queens) June 29, 1950, convictions affirmed 302 N. Y. 572 (1951), executed March 8, 1951.

Felony murder; shooting during a robbery of a motorist.

Witnesses saw three men fleeing from the scene, a street in Queens. A private citizen recovered the murder weapon from a lawn near the scene. Subsequently, a radio patrol officer in Westchester, unaware of the crime, followed and stopped a car occupied by the defendants. He took defendant Power into custody, upon Power's failure to produce the automobile registration. Queens police, whose investigation had led them to believe that the defendants and a certain accomplice had committed the killing, learned of Power's apprehension from the accomplice, and arranged Power's transfer to Queens. Defendant King was also

apprehended. The defendants confessed (*C*), identified the murder gun, and directed the police to another weapon (*A*), which the defendants had used in the robbery, and had thrown from the car in Westchester when followed by the police.

50. 51. **Raymond Fernandez** and **Martha Beck**, convicted (Bronx) Aug. 22, 1949, convictions affirmed 301 N. Y. 302 (1950), cert. den. 340 U. S. 914 (1951), executed March 8, 1951.

Common law murder; beating with a hammer, and strangling, of an old widow.

After the killing, the defendants went to Michigan, where they took up residence with another widow. When this widow was reported missing, Michigan police went to her house, and brought the defendants to the police station for questioning. Michigan officers took from the house personal papers of the New York widow (*A*), and a rent receipt (*A*) for rooms that the defendants had rented at the New York widow's home. At the Michigan police station, officers seized the New York widow's ring (*A*) from defendant Beck. The defendants confessed to killing both women (*C*). At trial, witnesses established that the defendants had been with the New York widow shortly before her death.

52. **John Saiu,** convicted (Bronx) June 30, 1950, conviction affirmed 302 N. Y. 636 (1951), executed April 12, 1951.

Common law murder; strangling of an eight-year-old boy with a leather belt, in a park.

The defendant was arrested, and on his person were a pencil (*A*) and a Canadian coin (*A*). The defendant confessed (*C*), and stated that he had befriended the deceased in the park, had shown him coin tricks, and had given him a pencil. Playmates of the deceased testified at trial that the defendant and the deceased were together shortly before the crime.

53. **Bernard Stein,** convicted (N. Y.) Nov. 6, 1950, conviction affirmed 302 N. Y. 915 (1951), executed Feb. 6, 1952.

Felony murder; shooting during a robbery in a bar.

Accomplices **Shaket** and **Reilly,** *supra* Nos. 26, 27, were apprehended immediately. The police obtained information that the defendant, who escaped, had been in close contact with them before the crime. Three years after the murder, a detective received information that the defendant was working in Chicago. The officer arrested him there, identifying him from a photograph. The defendant claimed another identity (*C*), but acknowledged his true name after the officer searched him and found pictures of his family (*A*). Also on the defendant's person were identity cards under a false name (*A*). The officer and the defendant went to a Chicago bank, and opened the

defendant's safe deposit box, which contained several other false identification papers (*A*), and $2000 cash (*B*), which the defendant claimed to have earned. Eyewitnesses to the murder later identified the defendant in a lineup in New York (*D*).

54. **Wallace Ford**, convicted (Genesee) Dec. 4, 1951, conviction affirmed 304 N. Y. 679 (1952), executed Oct. 30, 1952.

Common law murder; the deceased, the defendant's sister-in-law, was struck on the head with a rock, then run over with a car.

The police spoke to the defendant at his home two days after the killing, and asked him where the car was that he had been driving on the day of the crime. The car belonged to the deceased's brother; the defendant had borrowed it for a few days. The defendant pointed it out, and the police drove the defendant and the car to the police station. While the defendant was at the station house, specimens of hair (*A*) and cloth (*A*) were taken from the car, and were later proved to match the deceased's hair and clothing. The defendant confessed to the crime (*C*). At trial, witnesses testified that they saw the defendant driving the car near the scene of the crime. The defendant claimed insanity.

55. **Edward H. Kelly**, convicted (Ulster) Oct. 2, 1950, conviction affirmed 304 N. Y. 662 (1952), executed Oct. 30, 1952.

Common law murder; shooting of the defendant's ex-fiancee with a rifle.

Witnesses saw the defendant shoot the deceased on the street, then shoot himself. A box of shells (*A*) was taken from the defendant's jacket pocket while he lay on the pavement, and a shell (*A*) and slug (*A*) were removed from his pockets as he lay in the hospital emergency room. The defense at trial was insanity.

56. **Joseph Paonessa**, convicted (Dutchess) June 15, 1951, conviction affirmed 303 N. Y. 964 (1952), cert. den. 344 U. S. 860 (1952), executed Jan. 15, 1953.

Common law murder; shooting of a young boy.

Two months after the killing, the defendant was brought to the police station for questioning, and was released. A few days later, the police obtained the murder weapon (*A*) at a co-defendant's home. The defendant was apprehended. Confronted with proof of his absence from work on the day of the murder, the defendant made certain admissions (*C*). He confessed (*C*) when confronted with the co-defendant and the murder weapon.

57. **Frank Wojcik**, convicted (Wyoming) May 13, 1952, conviction affirmed 305 N. Y. 551 (1953), executed April 16, 1953.

Common law murder; double shotgun slayings of the defendant's wife and her brother, at the defendant's farm.

A hired hand heard the three principals arguing. There was a shot, the defendant's wife shouted "My poor brother, Leo. You have shot him," and there was another shot. The witness rushed into the room, saw the bodies, and noticed the defendant's shotgun (*A*), the murder weapon. The defendant's car was seen leaving the premises. Soon after, the defendant appeared at his son's home, and confessed the killings to him. After the defendant's arrest the same day, he confessed to the police (*C*). Shotgun slugs (*A*) were recovered at the scene. At trial, one of the defenses was insanity.

58. **Donald H. Snyder**, convicted (Putnam) Sept. 22, 1952, conviction affirmed 305 N. Y. 790 (1953), executed July 16, 1953.

Felony murder; stabbing of a little girl whom the defendant, an escaped convict, held hostage while he was surrounded by police.

The police immediately closed in and seized the murder knife (*A*) from the defendant's hand. He confessed (*C*), and at trial the victim's mother and other eyewitnesses described the crime.

59. **William Draper,** convicted (Monroe) May 6, 1952, conviction affirmed 304 N. Y. 799 (1952), cert. denied 345 U. S. 944 (1953), executed July 23, 1953.

Felony murder; strangling and beating of an old woman during an attempted rape.

The deceased was last seen alive in the evening, leaving a tavern with the defendant. Her body was found the next morning. In a field some distance form the corpse were the deceased's girdle, her hat, and the defendant's billfold. Strewn about the area were other clothing and personal effects of the deceased, including portions of a necklace of beads that the deceased had worn the day before. The defendant was arrested that evening, while he was driving in his car with his family. He was taken into custody in a police vehicle, while his car was taken to the county morgue for examination. Beneath the front seat of the car were beads (*A*) matching the deceased's necklace. The defendant made two statements, one exculpatory, the second inculpatory (*C*). Introduced at trial was a photograph of the interior of defendant's car (*B*), showing the beads under the seat.

60. 61. **Maurice O'Dell** and **Walter Griffen,** convicted (Erie) May 1, 1953, convictions affirmed 306 N. Y. 627 (1953), executed Jan. 7, 1954.

Felony murder; shooting during a jewelry store robbery.

After the crime, the defendants left part of the booty, and a gun that was used in the robbery, with a friend, but

the bailee became frightened, gave these items to the police, and disclosed the defendants' identities and addresses. The police apprehended defendant O'Dell at his room, seized the watch that he was wearing (*A*), one of the stolen items, and took from his girl friend, who was also in the room, a ring (*A*) also stolen during the robbery. At the police station, defendant O'Dell admitted giving the ring to the girl, but lied about its source (*C*). The police arrested defendant Griffen at his apartment, and seized from a table next to his bed a wrist watch (*A*) that was taken during the robbery. Eyewitnesses identified the defendants at trial, and defendant Griffen confessed on the witness stand.

62. 63. **Henry Lewis Allen** and **John Martin**, convicted (Kings) July 15, 1953, convictions affirmed 306 N. Y. 727 (1954), executed March 11, 1954 and July 15, 1954.

Common law murder; killing of a storekeeper with a meat cleaver and knife.

The defendants were taken into custody separately several hours after the discovery of the deceased's body. Both defendants confessed (*C*). Defendant Martin led the police to a roof, where one of the weapons, a meat cleaver stained with human blood (*A*), was hidden. The bloodstained shoes that Martin was wearing (*A*) were also seized. The defendants stated that after the murder they went to Martin's room, cleaned up, and ate ice cream that they had stolen from the deceased's store. A search of Martin's room disclosed a bloodstained cap (*A*), which

Martin acknowledged wearing during the killing, Allen's bloodstained trousers (*A*), which he identified, and an empty ice cream carton (*A*).

64. **Emile Hendricka Scott**, convicted (N. Y.) Oct. 19, 1953, conviction affirmed 307 N. Y. 663 (1954), executed July 15, 1954.

Common law murder; shooting of a policeman as the defendant fled by car from a liquor store that he had robbed.

The fatally wounded officer shot the defendant, who abandoned the getaway car and ran. In the vehicle, which was registered to the defendant's wife, were $170 in bills (*A*), and a fired cartridge shell (*A*). When a neighbor of the defendant acknowledged that the defendant recently had been to the neighbor's home, the police searched the premises and found the murder weapon (*A*). They later arrested the defendant, and found $25 in bills on his person (*B*). Several witnesses to the shooting identified him at the police station (*D*). The defendant was taken to the hospital, where a bullet (*A*), later traced to the deceased officer's gun, was removed from the defendant's arm.

65. **William Vanderwyde**, convicted (N. Y.) Apr. 30, 1952, conviction affirmed 304 N. Y. 937 (1953), cert. denied 345 U. S. 959 (1953), executed July 22, 1954.

Common law murder; shooting of a longshoreman hiring boss.

A passing police officer witnessed the crime, chased and apprehended the defendant, retrieved the murder weapon, a .38 calibre gun that the defendant threw away, and found on the defendant's person ten loaded .38 calibre cartridge shells (*A*) of the same make and type as the fatal bullet. The defendant's clothing matched that of an unidentified person who was known to have visited the deceased a few moments before the murder.

66. 67. **John Dale Green** and **Barry Jacobs**, convicted (Bronx) Jan. 8, 1953, convictions affirmed 306 N. Y. 717 (1954), cert. denied 347 U. S. 1019 (1954), executed Aug. 26, 1954.

Felony murder; shooting during an attempt to steal an automobile.

Defendant Jacobs was arrested shortly after the crime, on the roof of a nearby building. He confessed, and named defendant Green as his confederate (*C*). The police arrested Green at his home, and took from the premises a stocking (*A*), which Green later admitted he had tried to pull over his face during the crime (*C*). At trial, a witness identified defendant Jacobs as one of the fleeing bandits. Descriptions supplied by other witnesses matched the

two defendants. Also adduced were the murder gun, which had been found in the street along Jacob's escape route, and a pair of sunglasses, which had been found in the automobile, and was traced to Jacobs.

68. **Henry Matthews**, convicted (N. Y.) Apr. 8, 1954, conviction affirmed 308 N. Y. 696 (1954), executed Feb. 10, 1955.

Felony murder; stabbing during a robbery in an apartment.

Friends of the defendant informed the police that he had confessed the crime, and co-defendants whom the police arrested also implicated him. The defendant made admissions after his arrest (*C*).

69. **Romulo Rosario**, convicted (N. Y.) May 14, 1954, conviction affirmed 308 N. Y. 723 (1954), executed Feb. 17, 1955.

Common law murder; shooting.

A police officer on the street heard shots, observed people running from a restaurant, and saw the defendant carrying what appeared to be a gun. The officer ordered him to stop, and the defendant threw down the weapon (*A*), which was proved to be the murder gun. In his hand were three empty shells (*A*), in his pocket five live cartridges (*A*). The defendant confessed his guilt (*C*), and at trial eyewitnesses described his assault upon the deceased.

70. 71. 72. **Harry A Stein, Nathan Wissner** and **Calman Cooper**, convicted (Westchester) Dec. 27, 1950, convictions affirmed 303 N. Y. 856 (1952), affirmed 346 U. S. 156 (1953), rearg. denied 307 N. Y. 253 (1954), executed July 9, 1955 and Sept. 8, 1955.

Felony murder; shooting during a hijacking of a Reader's Digest truck.

The driver of the truck, who witnessed the slaying of his partner, described to the police the participation of the three defendants and their accomplice; all were unidentified. During an extensive investigation, a rented truck used by the robbers was traced to defendant Cooper, an ex-convict, who was known to have conversed with a fellow prisoner about robbing the Reader's Digest, during his last imprisonment. Two months after the crime, the lessor of the truck identified Cooper on the street for the police, and Cooper was arrested. He confessed (*C*), implicated the other three participants, and revealed that the proceeds of the robbery had been taken to the home of the accomplice in valises. Defendant Stein was arrested at about the same time, and made a similar confession (*C*). Police then recovered a valise (*A*) from the accomplice's home; it contained a fragment of a discount certificate (*A*), which was proved to have been part of the stolen Reader's Digest shipment. The three defendants were identified by witnesses after their arrest (*D*). At trial, the driver of the truck, and the accomplice, identified the defendants, and described their participation in the felony murder. A weapon, money bags, and part of a disguise, which were discarded by the robbers near the scene, were introduced. Defendant Cooper raised the defense of insanity.

73. 74. **Clarence Reed** and **Edward Nichols**, convicted (N. Y.) Dec. 2, 1954, convictions affirmed 308 N. Y. 1038 (1955), executed Sept. 8, 1955.

Felony murder; shooting during a robbery at a crap game.

After witnesses to the crime picked out photographs of the defendants from a group of police pictures, the defendants were arrested. Defendant Nichols took the police to his apartment, where a search revealed a cartridge (*A*) that was fired from the same gun as the murder bullet. Defendant Nichols was identified at a lineup (*D*). Defendant Reed was arrested and searched. In his wallet was a photograph of himself wearing dark glasses (*A*), an appearance that matched the eyewitnesses' descriptions of one of the robbers. Defendant Reed was identified at a lineup (*D*), and he admitted that a hat found at the scene belonged to him (*C*), but gave the police a false alibi (*C*).

75. **William Byers**, convicted (N. Y.) Feb. 10, 1955, conviction affirmed 309 N. Y. 908 (1955), executed Jan. 12, 1956.

Common law murder; stabbing in the deceased's apartment. The deceased's daughter was convicted of second degree murder in the same proceedings.

After the crime, but before its discovery, the defendant married the deceased's daughter and moved in with her at the victim's apartment. Several weeks later, in response to the building superintendent's report of odors coming

from the apartment, a detective entered the empty premises from the fire escape, through an unlocked, partly open window. He found the deceased's body in the bathroom (*B*), and recovered the murder weapons (*A*). The daughter was arrested, confessed (*C*) and implicated defendant Byers, who was apprehended and also confessed (*C*). The defense of insanity was raised at trial.

76. **Norman Roye**, convicted (N. Y.) Mar. 4, 1955, conviction affirmed 309 N. Y. 903 (1955), executed Jan. 19, 1956.

Felony murder; strangling during a rape and robbery on the roof of a building.

Detectives interrogated residents of the building where the murder occurred, went with the defendant to the roof, and questioned him there. An officer observed blood stains on the defendant's trousers (*A*), asked him to roll up the cuffs, and saw bloodstains on his socks (*A*). The defendant thereupon confessed (*C*).

77. **John Francis Roche**, convicted (N. Y.) Nov. 30, 1954, conviction affirmed 309 N. Y. 678 (1955), executed Jan. 26, 1956.

Felony murder; stabbing and beating of a fourteen-year-old girl during a rape.

Three days after the crime, a patrolman saw a car facing in the wrong direction on a one-way street. The defendant was in the driver's seat, talking to another officer. The patrolman entered the car and ordered the

defendant, who had no motor vehicle license or registration, to drive to the police station. At the station, while the defendant was questioned about his activities for the last few days, the car was searched. The search disclosed a knife (*A*), a metal pipe (*A*), a sweater (*A*) and a pair of shoes (*A*), each stained with blood. The defendant confessed that he stole the car, murdered the deceased and deposited the evidence in the vehicle (*C*). At trial, he claimed insanity.

78. **Ernest Edwards**, convicted (Kings) April 4, 1955, conviction affirmed 309 N. Y. 1020 (1956), writ dismissed 352 U. S. 804 (1956), executed June 28, 1956.

Felony murder; beating of a Brooklyn fisherman with a lead pipe during a robbery.

The day after the crime, police officers in Manhattan stopped a car occupied by the defendant and his accomplice, apparently to question them about a recent assault in the neighborhood. When asked who owned the car, the defendant named his "buddy Englander"; this was the deceased's name (*C*). A search of the car produced a lead pipe (*A*), the murder weapon, which the defendant admitted was his (*C*). The car and its two occupants were taken to the police station. An officer removed from the vehicle certain fishing gear (*A*), and a wallet with the deceased's initials (*A*). The police also seized the clothes (*A*) that the defendant was wearing; these contained sand (*A*) of the type found at the scene of the crime. The accomplice testified against the defendant at trial.

79. **Frank J. Newman**, convicted (Nassau) Dec. 12, 1955, conviction affirmed 1 N. Y. 2d 875 (1956), executed Aug. 23, 1956.

Common law murder; rifle-slaying of the defendant's wife at their home.

The deceased's children witnessed the shooting. Apparently as a result of their statements to the police, the defendant was arrested in an outdoor telephone booth, two hours after the crime. The police took his car, which was parked across the street from the booth, searched the vehicle, and found a .22 calibre rifle (*A*), the murder weapon, on the front seat; a box of ammunition (*A*); a bullet; and a jacket (*A*) containing the defendant's correspondence with his life insurance company (*A*), indicating a desire to substitute his children for his wife as beneficiaries. The defendant admitted the shooting (*C*). A search of the Newman house revealed a fired .22 calibre cartridge (*A*) and two unfired cartridges (*A*). An officer observed a trail of blood (*B*) from the kitchen floor out to the yard where the body had been found. The defendant's purchase of the rifle and ammunition on the day of the murder was proved at trial. The defenses were intoxication, and insanity.

80. **Joseph Reade**, convicted (Chautauqua) Dec. 2, 1955, conviction affirmed 1 N.Y. 2d 459 (1956), executed Aug. 30, 1956.

Common law murders; strangling, beating and rape of the defendant's sister-in-law and her infant daughter.

The defendant remained alone in his brother's house with the victims when the brother left in the evening for work. The brother returned the next morning to find his wife and child murdered. There were no signs of burglary. The defendant, who had a record of prior arrests, was arrested that morning, spoke to the police, and confessed when confronted with the falsity of his story as to his activities of the night before (*C*). He led the police to a swamp where he had hidden the mother's pocketbook (*A*), her wallet (*A*), and the collar of the shirt he had worn during the murders, which he had ripped from the shirt because it bore the laundrymark "Reade" (*A*). The defendant and the police then went to the building where the defendant resided. In the common bathroom of the premises, outside of his apartment, was the rest of his shirt (*A*). In a garbage can in the alley was the defendant's blood-stained T-shirt (*A*), torn in half. At trial, the defendant alleged insanity.

81. **Leonard Salemi**, convicted (N. Y.) June 24, 1953, conviction affirmed 306 N. Y. 863 (1954), executed Feb. 28, 1957.

Common law murder; shooting in a bar.

Eyewitnesses identified the defendant from photographs at the police station, and one witness stated that the deceased had named the defendant as the killer before he died. The defendant surrendered ten weeks later.

82. **MacDonald Browne**, convicted (Bronx) March 8, 1956, conviction affirmed 2 N. Y. 2d 842 (1957), executed March 14, 1957.

Common law murder; stabbing of a youth.

Several witnesses saw the killing. The defendant was arrested on the same day, after an acquaintance identified him for the police. A knife (*A*), the murder weapon, was seized from his person. The defendant made substantial admissions (*C*). His defense at trial was insanity.

83. **Miguel Santiago**, convicted (N. Y.) Dec. 17, 1956, conviction affirmed 3 N. Y. 2d 809 (1957), executed Aug. 15, 1957.

Common law murder; shooting.

Two days after the killing, members of the defendant's family visited the police station, and a detective went with them to an apartment building where the family, but not the defendant, lived. At a detective's instruction, a rela-

tive of the defendant went upstairs and brought down a gun, the murder weapon (*A*). The officer then went up to the apartment, and found the defendant, who admitted killing the deceased with the gun (*C*). At trial, witnesses at the scene testified against the defendant, and others established the defendant's pre-crime statements that he planned to kill the deceased.

84. **David Taylor**, convicted (Bronx) April 27, 1956, conviction affirmed 2 N. Y. 2d 1009 (1957), executed Nov. 21, 1957.

Felony murder; strangling during a robbery.

The defendant was one of several lodgers in the deceased's apartment. When the body was found, certain property was missing from the premises, including a trunk and some suits of one of the other roomers, and a radio and other possessions of the deceased's son. The defendant did not return to the apartment after the crime. In a drawer of the room that he had occupied, the police found an employment application in the name of "Roy Benson" (*A*). The police recovered some of the stolen property, including the radio (*A*), at a certain pawnshop, where it had been pawned in the name of "Roy Benson."

Six months after the murder, a police officer stopped the defendant on the street. The defendant identified himself as "Roy Benson," but produced no identification. He agreed to accompany the officer to the station house. There, the defendant confessed that he had killed the deceased because she had interrupted him as he was stealing suits from the room of another boarder; he had spent the night of the

murder at a certain hotel, after registering as "Roy Benson," had pawned many of the stolen articles, and had left other items in the stolen trunk, which was still at the hotel (*C*). On the day after the defendant's arrest, the police went to the hotel, opened the trunk (*A*), and found some of the missing clothing (*A*), and three pawn tickets (*A*), which corresponded to other stolen items (*A*).

85. **Elmer Burke**, convicted (N. Y.) Dec. 16, 1955, conviction affirmed 1 N. Y. 2d 876 (1956), executed Jan. 9, 1958.

Common law murder; shooting during a fight in a bar.

The defendant made substantial admissions (*C*) to the police after his arrest, which followed his identification from police photographs by eyewitnesses. The defense of insanity was raised at trial.

86. **Nicholas Dan, Jr.**, convicted (Niagara) June 21, 1957, conviction affirmed 4 N. Y. 2d 934 (1958), executed July 3, 1958.

Felony murder; beating with a tire iron during a robbery. A co-defendant was convicted of manslaughter.

On the morning after the killing, the defendant was arrested for violation of probation. That day, police investigating the murder learned that the deceased was last seen leaving a bar and entering a car with the defendant and the co-defendant. Questioned about the murder, the defendant confessed (*C*) and directed the police to the home

of the owner of the car, a relative of the co-defendant. There, the police found the car, and on the floor of the vehicle found human hair (*A*), and residues of blood (*A*), which were traced to the deceased.

87. **Angelo LaMarca,** convicted (Nassau) Dec. 14, 1956, conviction affirmed, 3 N. Y. 2d 452 (1957), cert. denied 355 U. S. 920 (1958), executed Aug. 7, 1958.

Felony murder; abandonment of an infant who had been kidnaped for ransom.

The New York police and the FBI compared the ransom notes with two million specimens of handwriting. Six weeks after the kidnaping, a handwriting expert determined that a certain specimen was written by the author of the ransom notes. The New York police and the FBI connected the specimen with the defendant, arrested him, and seized a chauffeur's license (*A*) from him. At the police station, the defendant made certain writings for the police, and he confessed when confronted with a comparison between these writings and the ransom notes (*C*). At trial, witnesses testified that they had seen the defendant near the scene of the kidnaping. During cross-examination of the defendant, he was questioned about false information that he had supplied on his chauffeur's license.

88. **Virgil Richardson**, convicted (Queens) May 3, 1957, conviction affirmed 4 N. Y. 2d 224 (1958), cert. denied 357 U. S. 943 (1958), executed Nov. 20, 1958.

Common law murder; shooting of a policeman.

Police found the murder weapon, a revolver, at the scene. Several days after the crime, from information supplied by the manufacturer of the gun and certain public agencies, the police went to the defendant's residence, but learned that he was on his way to Atlanta. Other officers searched the cellar of the defendant's previous residence, and found a spent bullet (*A*), which had been fired from the murder weapon. The New York police informed the FBI that an arrest warrant had been issued for the defendant, and that he was charged with killing an officer. On the basis of this communication, the FBI arrested the defendant in Atlanta. He confessed the shooting to them, and repeated the confession in New York (*C*).

89. **Edward Eckwerth**, convicted (Westchester) Feb. 13, 1957, conviction affirmed 4 N. Y. 2d 811 (1958), cert. denied 357 U. S. 942 (1958), executed May 22, 1959.

Common law murder; bludgeoning of a young woman.

Shortly after the deceased was reported missing, the defendant left his job as a salesman, and went to the West Coast. Brought back from Oregon two months later, he denied his guilt, but made certain admissions (*C*). The police confronted him with a soiled and bloodstained quilt (*A*), which they had taken from the delivery truck that the defendant had driven on his job before the crime. The de-

fendant confessed that he killed the deceased (*C*), and he led the police to her body (*B*). At the trial, witnesses established that the defendant was with the deceased on the afternoon of her disappearance, and that he did not return the delivery truck the next day.

90. 91. **Jackson Turner, Jr.**, and **Ralph Dawkins**, convicted (Queens) Dec. 27, 1957, convictions affirmed 4 N. Y. 2d 967 (1958), cert. denied 359 U. S. 970 (1959), executed July 16, 1959.

Felony murder; shooting in the course of a robbery of a delicatessen. Two co-defendants were sentenced to life imprisonment, pursuant to the jury's recommendation.

Immediately after the shooting, which occurred at about 9:15 at night, the four participants ran away. Officers on motor patrol, unaware of the robbery, saw the two co-defendants running down the street, and stopped them, but released them upon receiving an excuse for their conduct. The two men proceeded. The officers followed a short distance behind in the radio car, arrested them upon receiving a certain radio report, and brought the pair to the scene of the robbery. The co-defendants confessed that they had been the lookouts, and named defendants Dawkins and Turner as their confederates. Dawkins was promptly arrested, confessed to entering the store to rob it, and named Turner as the actual killer (*C*). At the police station, Dawkins was identified by neighbors of the deceased (*D*). A child found in some bushes the gun that was used by defendant Dawkins, and nearby the police recovered the murder weapon, defendant Turner's gun.

An extensive search for Turner proved unsuccessful, because, as witnesses later established, he eluded the police in New York, and fled temporarily to Philadelphia. During the investigation, police officers went to the home of a certain woman, from whom defendant Turner's common-law wife rented a room. On a dresser in the room were five live cartridges (*A*) and one spent shell (*A*), which the officers took away after talking to the woman. The police then went to the home of Turner's mother-in-law, and spoke to Turner's wife there. On the bed in a room that Turner and the girl shared were articles of his clothing (*A*). Later, the police returned to the home of Turner's mother-in-law, and after talking with her, took a suit (*A*) of Turner's; in the inside jacket pocket was a cartridge (*A*). The cartridges and shells obtained by the police were matched to Turner's gun.

Detectives eventually received "information," found Turner, and arrested him. He confessed to the robbery, but blamed Dawkins for the shooting (*C*). At trial, the defendants' friends and acquaintances, including the woman whose house the Turners had occupied, and Turner's common-law wife, testified as to the defendants' admissions, their attempts to hide from the police, and their efforts to dispose of the guns and bullets after the robbery.

92. **Leroy Keith**, convicted (Bronx) Jan. 31, 1958, conviction affirmed 5 N. Y. 2d 1037 (1959), executed July 23, 1959.

Felony murder; shooting of a taxicab driver during robbery.

The defendant shot the cab driver in full view of a police officer, whose help the victim had sought. The defendant then fired at the officer, fled on foot, and was caught after a gun battle. The murder weapon (*A*) was seized from his hand. Three friends of the defendant, who had entered the cab with him and were apparently accomplices, testified against him at trial.

93. **Ivory Mason**, convicted (N. Y.) Apr. 7, 1959, conviction affirmed 7 N. Y. 2d 768 (1959), executed Jan. 14, 1960.

Common law murder; shooting of paramour.

The defendant was arrested in Memphis four years after the crime, and he confessed (*C*). At trial, his guilt was further established by eyewitnesses, and by evidence of flight and motive.

94. **Pablo Vargas**, convicted (N. Y.) Jan 23, 1959, conviction affirmed 7 N. Y. 2d 555 (1960), executed June 12, 1960.

Common law murder; strangling of a sixteen-year-old girl during a rape.

The defendant was a lodger in a boarding house operated by the deceased's mother. He, the other boarders, and neighbors were questioned at the police station, while officers searched the house. In the defendant's room the police found a bathrobe (*A*), a slipper (*A*) and a bedspread (*A*) bearing bloodstains, and the officers saw blood on the floor (*B*). The defendant confessed when confronted with this evidence, and with his fabrications (*C*). It was further proved that he and the deceased were the only residents of the house who were present at the time of the crime, and that the defendant had rearranged certain items in the premises before and after the crime to direct suspicions elsewhere.

95. 96. **Henry Flakes** and **Walter T. Green**, convicted (Erie) March 6, 1959, convictions affirmed 7 N. Y. 2d 1038 (1960), executed May 19, 1960.

Felony murder; shooting during a robbery of a clothing store. A co-defendant was sentenced to life imprisonment, pursuant to the jury's recommendation.

Two days after the murder, defendant Flakes was arrested at his home. He falsely denied being in the neighborhood of the robbery for several weeks. The following day, Flakes's brother delivered to the authorities a bag

(*A*) containing the murder gun (*A*), which defendant Flakes had given him shortly after the robbery. Flakes identified the gun as the weapon he had used in the robbery, and named defendant Green as one of his accomplices (*C*). The same day, Green surrendered, having seen his photograph in a newspaper story about the robbery. Green made substantial admissions (*C*). At the police station, the deceased's widow, who witnessed the murder, identified the defendants as participants (*D*). Sometime thereafter, the police recovered from a cleaning store four suits (*A*) that were stolen from the deceased's shop; the owner of the cleaning store, a friend of defendant Flakes, explained that on the day after the robbery, Flakes had left the garments with him to hold. At trial, the co-defendant's girl friend, who was present in the getaway car during the robbery, testified against the participants. Relatives of the defendants described their admissions, their possession of the stolen clothing, and other incriminating conduct immediately after the crime.

97. **Willard Phillips**, convicted (Nassau) Oct. 17, 1958, conviction affirmed 6 N. Y. 2d 788 (1959), writ dismissed 362 U. S. 456 (1960), executed June 23, 1960.

Felony murder; rape-slaying of an eight-year-old girl.

The girl was reported missing, and was last seen by her schoolmates in the afternoon, driving away with a man. The next day, after talking with the girl's schoolmates, police went to the defendant's home, questioned him there, took some clothing (*A*) that corresponded to descriptions of the clothing worn by the man in question, and brought the defendant to the police station. The girl's body was

found the following day. At some time, the police took some bloodstained underwear (*A*) from the defendant's home. When informed of this evidence, he gave incriminating statements (*C*) for the first time. An examination of the defendant's automobile disclosed peanut shells and hulls (*A*) similar to shells and hulls found in the hair of the deceased, and human hair (*A*) of the same characteristics as the victim's hair.

98. **Ronald Chapman**, convicted (N. Y.) Nov. 30, 1959, conviction affirmed 8 N. Y. 2d 809 (1960), executed Dec. 7, 1960.

Felony murder; killing of an old man by beating, kicking and stabbing, during a robbery in a hallway.

Three women on the street saw the defendant leaving a hallway, keys dangling on a chain from his pocket. After he said something to them and walked on, they pointed him out to a policeman, who arrested him on the street. The defendant forcibly resisted, but was apprehended and was taken to the police station, where $1.40 was found on his person (*B*). At the scene of the arrest, the police recovered the keys (*A*), which belonged to the deceased, and apparently had fallen from the defendant's pocket during the arrest. The defendant confessed the crime, and acknowledged that he had stolen $.50 from the victim (*C*). The defendant's fingerprints (*A*) were found in the hallway.

99. **Ralph Downs**, convicted (Bronx) Nov. 23, 1959, conviction affirmed 8 N. Y. 2d 860 (1960), cert. denied 364 U. S. 867 (1960), executed Jan. 5, 1961.

Felony murder; stabbing of a doctor in his office during a robbery.

After a conversation with the doctor's secretary, who was present at the time of the killing, the police went to the defendant's home, but he was not there. Two months later, the FBI arrested the defendant in Tampa. He confessed the murder to FBI agents, and repeated the confession to New York police officers (*C*). Later, the deceased's secretary identified the defendant in a New York police station (*D*). At trial, witnesses who were in the waiting room during the crime testified against the defendant.

100. **Woodrow Miller**, convicted (Kings) June 7, 1960, conviction affirmed 9 N. Y. 2d 839 (1961), executed June 8, 1961.

Felony murder; shooting during an attempted robbery of a liquor store.

Two men were seen fleeing from the store in a 1955 Oldsmobile convertible. The following morning, a policeman found the defendant and a companion, not his accomplice, seated in a 1955 Oldsmobile convertible, and took them into custody. The car was photographed (*B*). The defendant admitted his participation in the crime, and led the police to the companion's home, where the police found the murder weapon, a sawed-off twelve-gauge shotgun (*A*); and a live twelve-gauge shotgun shell (*A*), similar to the

fatal bullet. The defendant admitted purchasing the gun and ammunition at a certain pawnshop under the name "Robert Wilson" (*C*); this admission was corroborated at trial by the pawnbroker. An eyewitness identified the defendant as one of the two persons seen driving away from the scene, and identified the car from the photograph.

Respectfully submitted,

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